

## **INTRODUCTION**

We, the members of the Twenty-Fourth Statewide Investigating Grand Jury, having received evidence of allegations regarding violations of the Crimes Code occurring in Lancaster County, Pennsylvania, pursuant to Notice of Submission No. 12, do hereby make the following findings of fact and recommendation of charges:

## **FINDINGS OF FACT**

On September 1, 2005, Lancaster County District Attorney Donald Totaro requested that the Office of Attorney General assume jurisdiction over allegations that unauthorized use and/or unauthorized access of restricted and protected areas of a governmental computer system had occurred through the account of the Chief Lancaster County Coroner. The District Attorney requested the transfer of jurisdiction due to the potential for a conflict of interest in investigating an office, the Coroner, with which the District Attorney must regularly work. As a result of the request, the Office of Attorney General assumed jurisdiction under the Commonwealth Attorneys Act and subsequently submitted the matter before the Twenty-Fourth Statewide Investigating Grand Jury.

The Grand Jury heard evidence from Christopher Erb, Lancaster City Police Detective and computer crimes investigator that Lancaster County, Pennsylvania, operates and maintains a governmental communications center for the purpose of dispatching public safety and emergency response units for fire services, emergency medical services (EMS) and law enforcement. This communication center is referred to as the Lancaster County-Wide Communications (LCWC or 9-1-1) office, and is physically located in Manheim (Lancaster County), Pennsylvania. As part of its duties, the LCWC operates a computer world wide website

system ("9-1-1 website") that is available, to various degrees, to the public, fire services personnel, emergency services personnel and law enforcement personnel.

The 9-1-1 website contains dispatcher entries for all police, fire, ambulance and coroner incidents for the entire county, the information being entered onto the website by the 9-1-1 dispatchers and appearing on the 9-1-1 website in a nearly real-time format. The dispatcher information is processed by computer software known as the Web-CAD system. This software places information on three separate locations on the 9-1-1 website. One location is the public access area; where anyone with a computer and internet service can view the public 9-1-1 website. The information found on the public side is very limited and intentionally vague. It provides only basic information about what unit was dispatched, together with a date, time, approximate location, and generalized call type. The remaining two portions of the 9-1-1 website are secure and only accessible to those with county-issued user name and password. They are a Fire/Emergency Services/Coroner screen and a Police screen. The Police screen is highly detailed, with caller information, specific details of the call and crime alleged, the address and cross street and other pertinent information including comments of the caller. The Fire/EMS/Coroner screen has less detail than the Police screen but much more information than the public side, including specific call information and caller comments. Both sites contain confidential law enforcement information and personal information about victims, the injured and the deceased, where applicable. Such information includes, but is not limited to: names of alleged perpetrators, witnesses and victims; details of crimes that would only be known to perpetrators, witnesses, and authorized emergency services and law enforcement personnel; details of accidents; specific injuries suffered by victims of accidents or crimes; medical maladies pertinent to emergency responders such as contagious diseases; graphic information

regarding the specific location and condition of decedents; and, allegations about accidents and crimes that have yet to be verified by law enforcement personnel.

The password protected portions of the 9-1-1 website are specifically designed for the purpose of providing secure and detailed information to assist law enforcement and emergency services personnel in maintaining their own, and the public's, safety, while simultaneously protecting confidential and personal information about individuals involved with these services.

The Police and Fire/Emergency Services/Coroner screens are preceded by two separate, successive log-in pages with warning pages which state, respectively:

SITE ACCESS

**\*\* WARNING\*\***

*This is a Governmental computer system, which may be accessed and used only for official Government business by authorized personnel. Unauthorized access or use of this computer system may subject violators to criminal, civil, and/or administrative action.*

and

**\*\*WARNING\*\***

*Unauthorized users of this system may be subject to disciplinary action including prosecution under applicable laws. Any information on this computer system may be intercepted, recorded, read, copied, and disclosed by and to authorized personnel for official purposes, including criminal investigations. Access or use of this computer system by any person whether authorized or unauthorized, constitutes acknowledgment and consent to these terms.*

A user, whether authorized or unauthorized, after March 2005, had to pass by both of these warning screens to access the Fire/EMS/Coroner and police websites.

Detective Erb further testified that improper use of the Lancaster County-Wide Communication ("9-1-1 website") system occurred sometime between August 20, 2005, at approximately 4:48 p.m. and the morning hours of August 22, 2005, when an article with no

byline appeared in the August 22, 2005, edition of the Lancaster Intelligencer Journal ("Intelligencer Journal," "morning paper"). That article, bearing the headline "Woman Found Dead in City Apartment" contained detailed information about a suspicious death and referenced the "Lancaster County-Wide Communications Website." The article stated that the "owner of Patterson's Grocery" called police and "told dispatchers he had been showing the building to prospective buyers and took them to see a room he rents out above the store." "After using his key to unlock the door, the owner found the woman naked and unresponsive inside, according to the Web site." The public access portion of the 9-1-1 website did not contain any of the detailed information which was contained in the August 22, 2005, newspaper article.

Following a telephone call from a reporter from the competing Lancaster New Era ("New Era," "evening paper"), inquiring why the specifics in the August 22, 2005, article were not accessible on the public 9-1-1 website, a supervisor for Lancaster 9-1-1 became aware that there had been an intrusion onto the county password protected website. She advised her deputy director, Timothy Baldwin, via e-mail. Baldwin contacted the Lancaster City Police about the breach.

Lancaster County-Wide Communications Information Systems Specialist Todd Zimmerman generated a report showing that the 9-1-1 website was accessed on August 21, 2005, at 3:20 p.m. and 4:20 p.m. with a total of 6 entries by an internet protocol identified to Lancaster Newspapers. However, the user name was Gary Kirchner. Gary Kirchner ("Kirchner") is not an employee of the Lancaster Newspapers; he is the elected coroner of Lancaster County, having taken office in January 2004. This means that the coroner's user name and password were used to access the non-public 9-1-1 website but the actual computer used belonged to Lancaster Newspapers at 8 West King Street, Lancaster, Pennsylvania.

Zimmerman also ran a search retroactively and found a total of 57 times the password protected 9-1-1 website was accessed from Lancaster Newspaper computers using Kirchner's username and password. The unauthorized access occurred on the following dates and times:

- 8/07/05 at 5:05 p.m.; 7:12 p.m.; 7:57 and 11:12 p.m.
- 8/08/05 at 4:40 p.m.; 5:53 p.m.; 7:11 p.m.; 8:57 p.m. and 9:23 p.m.
- 8/09/05 at 3:30 p.m. and 7:16 p.m.
- 8/10/05 at 3:36 p.m.; 6:18 p.m. and 11:43 p.m.
- 8/11/05 at 3:07 p.m.; 3:25 p.m.; 6:51 p.m.; 7:53 p.m.; 8:30 p.m. and 9:49 p.m.
- 8/12/05 at 3:00 p.m. and 9:58 p.m.
- 8/14/05 at 8:21 p.m. and 9:45 p.m.
- 8/15/05 at 12:35 a.m.; 3:18 p.m.; 3:54 p.m. and 7:22 p.m.
- 8/16/05 at 3:24 p.m.; 4:44 p.m.; 5:30 p.m.; 7:06 p.m. and 9:05 p.m.
- 8/17/05 at 3:26 p.m.; 5:22 p.m.; 6:56 p.m. and 10:26 p.m.
- 8/18/05 at 3:31 p.m.; 7:01 p.m. and 9:21 p.m.
- 8/19/05 at 3:14 p.m. and 5:24 p.m.
- 8/21/05 at 3:19 p.m.; 3:32 p.m.; 3:36 p.m.; 3:39 p.m.; 3:46 p.m.; 3:51 p.m.; 4:03 p.m.; 4:22 p.m.; 4:39 p.m.; 4:50 p.m.; 6:57 p.m.; 8:20 p.m.; 9:33 p.m.; 9:44 p.m. and 10:40 p.m.

The incident which was the subject of the August 22, 2005, article in the Intelligencer Journal occurred on August 20, 2005, and there were 15 hits to the password protected Fire/EMS/Coroner website on August 21, 2005, initiated from Lancaster County Newspapers, with the username and password of Lancaster County Coroner Gary Kirchner. All of the above inquiries likely would be made in the evening by a reporter for the morning paper.

On August 23, 2005, Intelligencer Journal reporter Brett Lovelace ("Lovelace") published a second article about the August 20, 2005, suspicious death. It contained many details about the autopsy performed, the absence of trauma, the need for further toxicology testing and it listed the name of the victim, her age, the fact that she had two children in foster care and that she was last seen leaving a city bar in the company of a male. The information is attributed to Coroner Kirchner but much came to Kirchner from a city detective assigned to the case who did not speak to Lovelace.

Lancaster County-Wide Communications Information Technology (“IT”) department terminated the Coroner’s password access to the 9-1-1 website on August 22, 2005.

During the two weeks after access was terminated, there were 33 unsuccessful attempts to access the Fire/EMS/Coroner website from Lancaster Newspapers using Kirchner’s user name and password. Thereafter, there were a number of additional attempts in September and October 2005.

Lancaster County 9-1-1 requires a request for access to any password protected portion of the 9-1-1 website prior to access being granted. Upon submission of the proper form, signed by the applicant, a user name and password are issued. The form must be filled out by hand and signed. Kirchner submitted such a form on January 8, 2004. Kirchner signed the document and received user account number 30726, user name “CORONER” and password “CONN.” The request form makes clear the confidential and restricted nature of the site and contains the following pertinent language:

*By requesting access to restricted areas of the Lancaster County-Wide Communications website, you are agreeing to the following conditions:*

- 1. Access to the LCWC website will be used for official departmental business only.*
- 2. The person completing this form, or persons assuming their positions, will be responsible for the use of the assigned user name and password and to control the dissemination of any information obtained from the website.*
- 3. The user name and password will not be distributed outside of the agency to which it is assigned.*
- 4. Upon learning of any unauthorized use or abuse of the user name and password, the responsible party will immediately change the password via the website or notify LCWC to change the password for them.*
- 5. Repeated abuses or unauthorized access to restricted areas of the website will result in termination of the user account.*

In addition, Lancaster County’s Information Security Policy, which is 41 pages in length, contains the following relevant portions:

*“Users shall not use their e-mail to engage in any criminal activity as defined by relevant criminal legislation;”*

and

*“Users shall be aware that their e-mail, e-mail address and all correspondence are the property of Lancaster County.”*

Evidence was presented that Kirchner and other elected officials were trained on this policy during 2005, prior to the breaches which occurred in August 2005.

Special Agent Robert Drawbaugh of the Office of Attorney General, Bureau of Criminal Investigations testified to the contents of electronic mail (“e-mail”) between Kirchner and Intelligencer Journal staff reporters Lovelace and P.J. Reilly (“Reilly”) that was sent beginning on September 6, 2005. The e-mails were received as a string of undeleted prior e-mails attached to an e-mail sent to Wayne Ross, the forensic pathologist employed by Lancaster County. The e-mails were forwarded to the office of Attorney General.

The content of the e-mails show that Lovelace and Reilly were trying to have Kirchner restore their prior unfettered access to the 9-1-1 website. In an e-mail on September 6, 2005, at 1:00 p.m., Reilly wrote,

*“Gary, what we need is your ‘used [sic] ID’ and your password to access the coroner’s section of the site. Apparently, they have been changed. Can we have that new information? I will make sure it is kept confidential.”*

This e-mail was intended to be sent to Kirchner’s home computer, but was actually sent to LCWC (9-1-1).

A series of e-mails between Lovelace and Kirchner on approximately September 27, 2005, further discussed the reporters’ inability to access the website. Lovelace wrote:

*“I really need for you to get the problem fixed with the countywide communications website. As of now, neither of us can log in. The man who runs the website is Todd Zimmerman. Could you contact*

him and get it resolved? I used to rely on the coroner web-cad and it saved me from always calling you about stuff. The less phone calls the better. It would be a big favor to me, if you could get me back online. (signed) Brett.”

The reply by Kirchner on September 27<sup>th</sup> at 8:06 p.m. was,

“I don’t know what to do I have been issued a new password and code but everytime [sic] I use it it backfires. (signed) G.”

Lovelace replied,

“I don’t get why you won’t call Zimmerman and explain that your password and user name don’t work. I thought after Justin (Quinn) made all those concessions on a lawsuit article that you would return the favor.”

Kirchner’s reply, on the same date, at 10:06 p.m. was,

“I will but I have been told all inquiries are now logged—what part don’t you get of the county web? As I sit here I don’t even know ut [sic] I think my old CONN and maybe my name. It used to be CORONER. If I call Zimmerman, what am I going to say? That I have been blocked? G. Tell me what you want to get and don’t get???”

Lovelace replied,

“I want to be able to log into the coroner page which lists the calls. The page is updated as deputy coroners are dispatched. It has the time, location and type of call. It’s the same page that you had access too. The user name was coroner and password was conn.”

On September 28, 2005, at 2:16 a.m., Kirchner wrote back,

“You are into the regular web page and want to access one of the sub heads CORONER CONN is out. I have not made into the sub head. Understand they wished to track and restrict access. There was a form we needed to download and submit for new passwords. The form was submitted.”

Later on September 28, 2005. Lovelace replied,

“You are my web page but you often travel or could be restricted from revealing an investigation, so it’s best to have independent



source, i.e. the website. It should be available to the press anyway. After all, it's public dollars that built it and maintain it."

Justin Quinn ("Quinn") testified that he was a staff reporter for the Intelligencer Journal and he covered the courthouse news. Prior to covering the courthouse, he covered politics and therefore, the Lancaster County Coroner. Quinn testified that he developed a close working relationship with Lovelace because the police and courthouse positions are "sort of interlocked," and they had covered two high profile murder cases together. Quinn testified that Reilly, Paula Holzman ("Holzman"), Carrie Caldwell Cassidy ("Cassidy") and Madelyn Pennino ("Pennino") all covered police news at various times. Tom Flannery, deceased, also covered the police news prior to his death and had a very close relationship with Kirchner.

Quinn learned of the Grand Jury's investigation because of meetings involving newspaper editors, Lovelace, Holzman and newspaper counsel. He discussed the matter with Lovelace who informed him that the investigation involved Lovelace accessing a website that he wasn't supposed to access and Lovelace admitted to Quinn that he had done so. Lovelace admitted accessing the 9-1-1 website regularly since 2004. Lovelace told Quinn that neither Reilly nor Lovelace admitted to distributing the password; each claimed they had received it from the other. Lovelace told Quinn it was the coroner's password and that it accessed a coroner's screen which was password protected and not available to the public. Lovelace also admitted to Quinn that in March 2005, "warning pages" appeared on the website but he ignored them.

Lovelace told Quinn that he had given the user name and password for the website to Holzman in early August 2005, and directed her not to attribute anything to it, not to use it in a story and not comment about it to anyone. Nonetheless, Holzman wrote the story referenced above, attributing the information to the website. A short time later, Lovelace discovered the

password had stopped working to access the coroner website. Quinn testified that Lovelace asked Reilly if he was still able to use the password and Reilly tried and was also denied access. Both Reilly and Lovelace then e-mailed Kirchner, advising that the password was no longer working. Lovelace told Quinn that Kirchner then responded by providing the same user name and password. Lovelace tried the same user name and password again and it failed.

Quinn also related that he had been working on an article about a “six figure” lawsuit in which Kirchner was the plaintiff and that, just prior to publishing it, Kirchner asked him to hold the story so it would not jeopardize the potential settlement which ultimately resulted from the lawsuit. Quinn convinced his editors to withhold publication. Quinn was not aware that Lovelace had attempted to use Quinn’s favor to Kirchner in holding the story as leverage to have reporter access to the secure 9-1-1 website restored. Quinn also testified that Lovelace told Quinn that Pennino had also accessed the website using the password. Quinn testified that reporters sometimes used other computers when their computers were in use by staff of the competing evening paper and that a favorite alternate computer spot were the sports desk computers.

Kirchner was aware of the investigation as early as December, 2005, and e-mails from as early as September 27, 2005, indicate he knew that web site access was being tracked. On February 8, 2006, Kirchner is reported by the Lancaster New Era to have,

“strongly denied that he ever gave the media his password to the restricted Web site”

and quoted as saying,

“I was asked for it by the media numerous times and I never gave it out. Why in the hell would I give it out? If I gave it out and you (the media) used it, they would know who gave it out. I am not a fool.” The article goes on to further cite Kirchner that “allegations

[] that he provided access to the Web site to the media are 'absolutely untrue.'"

Agent Drawbaugh testified that a computer forensic search of computer hard drives seized from the home of Kirchner revealed an e-mail from Reilly to Kirchner on August 28, 2005, which says,

"Gary, apparently we don't have access anymore to the coroner's link to the county's emergency communication website. The password has been changed. Do you know what the deal is with this? Did somebody here do something wrong? If so, we can correct it? (signed) P.J."

Kirchner's e-mail history also contained a message from Lancaster County-Wide Communications on September 26, 2005, issuing him a new user name and password to the website. As late as April 14, 2006, Kirchner never used the new password. Kirchner's e-mail history also contained an e-mail reply to Lovelace dated December 23, 2005, and copied to others in which Kirchner denied ever giving the password to anyone.

Agent Drawbaugh testified that four computer hard drives identified to Reilly, Lovelace, Holzman and Cassidy were seized from the Lancaster Newspaper Company and that a forensic search was conducted on them by Senior Supervisory Special Agent Steve Arter ("Arter") who reported finding proof that the computers had accessed the 9-1-1 website. Arter's search revealed a total of 360 accesses to the website between early 2004 and June 2005. Of those, 48 were found to the password protected portion of the 9-1-1 website. Drawbaugh explained that there may have been more times the site was accessed but that the unallocated space on the hard drive which stored the address of the computer was regularly overwritten in a random fashion. Access was identified to Holzman, Lovelace and Cassidy. Each used the coroner's user name and password to access the Fire/EMS/Coroner page of the 9-1-1 website.

Intelligencer Journal Reporters Lovelace, Reilly, Holzman, Cassidy and Pennino were subpoenaed to appear and testify before the Grand Jury along with news editor Jon Ferguson. On their initial appearances, Lovelace, Reilly, Holzman, Cassidy, Pennino and Ferguson each asserted their Fifth Amendment right to refuse to provide evidence which would tend to incriminate them. Subsequently, Lovelace, Reilly, Holzman, Cassidy and Pennino testified before the Grand Jury after being granted immunity from prosecution for crimes supported by evidence arising from their testimony.

Carrie Cassidy testified that as a reporter for the Intelligencer Journal from spring of 2000 to May of 2004, she had accessed the password protected website 10 to 15 times. She testified that she received the password directly from Kirchner sometime between January and March of 2004. She stated that Kirchner offered her the password so she could check the website rather than calling him. Prior to receiving the password from Kirchner, she was unaware of its existence. She testified that she never distributed the password and was unaware of any fellow reporters using the website, except she believed Flannery had used the website and she learned, during the investigation, that Holzman had accessed the website. She later admitted that she knew Lovelace had the password because they discussed it only if he forgot it or she forgot it and they were the only reporters covering the "Cop Beat." Cassidy testified she recalled that Lovelace had shown the website to News Editor Jon Ferguson and that Ferguson was aware the reporters were using the website prior to the investigation. The Grand Jury finds this testimony credible, except it finds Cassidy distributed the password to Madelyn Pennino.

Madelyn Pennino testified that she was a staff reporter for the Intelligencer Journal from June 3, 2002, to the present and that, when she occasionally filled in on police coverage, she accessed the Fire/EMS/Coroner section of the 911 website using the coroner's password. She

testified that she may have done this as many as 100 times from her computer at the Lancaster Newspaper Company. She testified that Carrie Cassidy gave her the password approximately two years before. Pennino testified that Cassidy approached her desk and either told her the password or wrote it down for her and Pennino thought Cassidy showed Pennino how it was used. Pennino believed from Cassidy's demeanor that the password was a secret. Pennino testified that she knew that Reilly and Lovelace had the password and accessed the website. She also believed she gave the password to another reporter, Tom Knapp. She testified that she had seen both Reilly and Lovelace logged onto computers at the sports desk, in addition to their regular assigned computers. She said she saw the warning pages previously referred to and believed that "county officials might not like" her accessing the website. The Grand Jury found Pennino credible as to receiving the password from Caldwell.

Reilly and Lovelace each testified that as Intelligencer Journal reporters, they accessed the Fire/EMS/Coroner screen of the 9-1-1 website from Lancaster Newspaper computers using the user name and password of the coroner. Neither Reilly nor Lovelace would admit being able to remember who had given them the password or the circumstances of receiving it. Reilly filled in as police reporter only rarely and Lovelace was the primary police reporter.

Reilly testified that he remembered an occasion where he called Kirchner to verify a fact displayed on the Fire/EMS/Coroner screen concerning a skull being found and that Kirchner discussed it with him. The information concerning the skull was not on the public portion of the website. Reilly remembers logging on to the 9-1-1 website and reading the warning pages. He knew the password to the website belonged to Kirchner and knew that Kirchner knew he had the password. He admitted that when he e-mailed Kirchner about the password, Kirchner neither expressed surprise that Reilly had the password nor told him to stop using it. Instead, Kirchner

gave him the original user name and password again. Reilly testified that he doesn't remember giving the password to anyone else.

Lovelace testified that he received the password in spring of 2004 from another morning paper staff member, either Reilly or Cassidy, but denies being able to recall who gave it to him. He testified that he did not get the password from Kirchner but upon receiving the password, he let Kirchner know that he had the password and Kirchner invited him to continue to use it. Kirchner told Lovelace that he had already given it to other reporters. Lovelace knew that Cassidy and Reilly had the password and said he used the password hundreds of times to access the 9-1-1 website. Lovelace gave the password to Holzman and Pennino. Lovelace denied showing the website to morning paper News Editor Jon Ferguson but said that Ferguson knew Lovelace had the password and was using the 9-1-1 website. Lovelace said the warning pages began to appear after he began accessing the site but he ignored them. When he found the password inoperable in August of 2005, he contacted Kirchner who responded by repeating the CORONER and CONN password and user name to Lovelace via e-mail. Lovelace acknowledged that he told Kirchner he believed that the press should have access to the restricted side of the 9-1-1 website because it was paid for by taxpayer dollars. He acknowledged the press did not have access without the password. Lovelace denied that he knew he was not authorized to be on the website but could not explain why he did not simply ask website administrator Todd Zimmerman to restore his access to the website rather than repeatedly asking Kirchner to intervene with Zimmerman. The grand jury does not find Lovelace credible on this last point.

Evidence from Special Agent Drawbaugh demonstrates that Lovelace used the 9-1-1 secure website as early as February 9, 2004, a little over one month after Kirchner took office.

Forensic computer searches of two additional hard drives seized pursuant to Grand Jury subpoenas yielded proof that Pennino had accessed the website as early as June 27, 2004, and through as late as April 17, 2006. It also produced proof that Lovelace accessed the 9-1-1 website in May of 2006 from the sports desk computer, even though Lovelace denied ever using this computer.

The Grand Jury issued subpoenas to Lancaster Newspapers Inc. for six of the newspaper's hard drives for the clearly stated, limited and legitimate purpose of securing proof of unlawful access to the secure 9-1-1 website. Lancaster Newspapers Inc. pursued numerous legal attempts to prevent the Grand Jury from discovering pertinent evidence on these computer hard drives, by claiming a need to protect information in which the Grand Jury had no interest and which it had no intent to recover. Ultimately, the Grand Jury was authorized to evaluate all six computer hard drives for pertinent evidence. The computer forensic software tool utilized by both a senior supervisory special agent from the Computer Forensics Unit of the Office of Attorney General and by a private independent computer forensic contractor, yielded proof of access to the 9-1-1 site on each of the hard drives. This included proof of the use by Lovelace of an alternative computer he denied using under oath.

The Grand Jury heard evidence that the District Attorney of Lancaster County investigated and arrested two civilian individuals for improperly accessing the password protected 9-1-1 website during the course of the Grand Jury investigation. They also prosecuted four emergency responders for sharing access with unauthorized individuals. In one circumstance, a person called 9-1-1 to report suspicious drug activity in his neighborhood. That caller's name appeared on the password protected 9-1-1 website which was accessed by the civilians without authority. That caller's name was made known on the streets and the caller was

severely beaten in retaliation for providing information about illegal drugs he thought would be kept confidential by 9-1-1.

The Grand Jury finds that Kirchner expressed odd pleasure when an alleged theft occurred at his county office between the dates of March 3, 2006, and March 22, 2006, possibly around March 15, 2006. A certain document, a monthly list of decedents' information which Kirchner's secretary, Susan Finefrock, routinely faxed to the newspapers, was reported missing from a filing cabinet in the office. Kirchner had instructed her to leave the filing cabinets unlocked starting in November of 2005, so he could access them on the weekend. The filing cabinet from which the decedent list was missing also contained a personal file holding Kirchner's two forms from Lancaster County-Wide Communications System. The forms, one believed to be from October, 2004, and the other from September, 2005, were still in the filing cabinet in their proper place. There was no sign of forced entry to the office. When Finefrock advised Kirchner of the possible breach of the office, his response was,

“Oh wow, this is great. I have to get a letter to my attorney. This may help me.”

Finefrock advised that Kirchner immediately advised his attorney of the possible theft. The Grand Jury finds that the date of the alleged theft post dates the known time frame when Kirchner provided the password to Intelligencer Journal reporters in early 2004 and is irrelevant.

The Grand Jury also finds that in today's information age, the placement of confidential information in databanks is commonplace. There have been numerous highly publicized invasions of such databases where sensitive personal and identification information was improperly accessed by unauthorized users, placing innocent individuals and their personal and financial well-being in grave jeopardy. The information contained on Lancaster County's secure 9-1-1 website includes sensitive, personal information about telephone tipsters, crime witnesses,



crime victims, accident victims, and the deceased. The website must be maintained for the protection of the public, so that law enforcement and all emergency responders can effectively do their jobs.

The Grand Jury finds that Lancaster County-Wide Communication Services made every effort to achieve security for the sensitive information on the website. The site was only accessed by means of a user name and password, issued only to those who had read and signed acknowledgements about the confidential nature of the website. They also posted multiple warnings within the log-on procedure to the 9-1-1 website, explicitly excluding those who were not performing “official government business,” and warning of possible criminal and other sanctions. The Grand Jury notes that citizens deserve protection of confidential and personal information, collected by law enforcement and other government agencies that assist victims of crime, accident victims and families of the departed, from unnecessary public disclosure. In this age of electronic record keeping, allowance of free and unfettered access to such records and information would constitute a fundamental breach of individual privacy. In addition to invading the privacy of citizens, such unlawful disclosures could also frustrate, impede or possibly obstruct legitimate law enforcement investigations. The Grand Jury finds that Lancaster Newspapers Inc. and reporters Brett Lovelace, P.J. Reilly, Carrie Cassidy, Paula Holzman and Madelyn Pennino abused the website by entering it to gain tactical advantage in reporting over the competing newspaper and not for any official government business.

The Grand Jury finds that Gary Kirchner knowingly frustrated the efforts of Lancaster County-Wide Communications Services, disregarded the confidential and sensitive nature of information on the 9-1-1 website and wantonly abused his authority by distributing his user name and password to the reporters of the Intelligencer Journal. Kirchner took it upon himself to favor

certain members of the media by determining who would have access to the site and who would not.

Unlawful use of computer and other computer crimes is defined at 18 Pa. Consolidated Statutes §7611(a)(1). A person violates this criminal statute if he,

*“intentionally or knowingly and without authorization gives or publishes a password, identifying code, personal identification number or other confidential information about a computer, computer system, computer network, computer database, World Wide Web site or telecommunications device.”*

Additionally, anyone who,

*“intentionally and without authorization accesses or exceeds authorization to access...any computer, computer system, computer network, computer database, World Wide Web site or telecommunication device”*

also commits Unlawful use of a computer under 18 PA.C.S. §7611 (a)(2). Criminal conspiracy is defined at 18 Pa. C.S. §903 as acting,

*“with the intent to promote or facilitate the commission of a crime,” a person “agrees with such other person or persons that they or one or more of them will engage in conduct which constitutes such a crime.”*

Lancaster County Coroner Gary Kirchner intentionally and without authorization, gave or published his password and user name to at least one Intelligencer Journal news reporter, Carrie Cassidy, and that he acquiesced in its distribution to and use by four other reporters, Brett Lovelace, P.J. Reilly, Paula Holzman and Madelyn Pennino. The evidence confirms that Kirchner knew the reporters had the password and re-distributed it to them via e-mail when asked, in violation of Lancaster County-Wide Communications policy and disregarding the acknowledgment of the requirements to maintain secrecy of the password and user name. His acts permitted reporters to bypass all security measures established by LCWC and gain access to sensitive, confidential information on the county-owned and maintained World Wide Web site,

the LCWC 9-1-1 site. Kirchner was not authorized to distribute this password. He neither owned nor maintained the 9-1-1 website and he had signed a specific acknowledgment that his LCWC-issued user name and password were not to be distributed. Kirchner was aware that LCWC had taken substantial measures to preserve the confidentiality of information on the 9-1-1 website and he knowingly conspired with Intelligencer Journal newspaper reporters Brett Lovelace, Carrie Cassidy, P.J. Reilly, Paula Holzman and Madelyn Pennino to breach the security of the 9-1-1 website. Knowing that the reporters lacked access and were not intended by LCWC to have access, Kirchner committed a crime by giving them his user name and password and encouraging them to commit a crime by accessing information to which they were not entitled. The reporters, knowing they were not authorized to do so, accessed the 9-1-1 website, ignoring warnings that the site was only to be used for official government business. Kirchner and the reporters, working in concert, bypassed LCWC's 9-1-1 website security and committed the offenses of Criminal Conspiracy to commit Unlawful Use of Computers, 18 Pa. C.S. §903 and Unlawful Use of Computers, 18 Pa. C.S. §7611(a)(1)(2).